

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

GREGORY MANGO

Plaintiff,

- against -

BUZZFEED, INC.

Defendant.

Case No. 1:17-cv-6784 (VM-KNF)

**[Proposed] JOINT
PRE-TRIAL ORDER**

The parties to the above-captioned action respectfully submit this Proposed Joint Pre-Trial Order, pursuant to Rule 16 of the Federal Rules of Civil Procedure and the Court's Individual Rules and Pre-Trial Procedures.

(a) FULL CAPTION OF ACTION

Mango v. Buzzfeed, Inc., 1:17-cv-6784 (VM-KNF)

(b) NAMES OF TRIAL COUNSEL

For Plaintiff:

James H. Freeman, Esq.
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For Defendant:

Eleanor M. Lackman, Esq.
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(c) BRIEF SUMMARY OF CLAIMS AND DEFENSES

PLAINTIFF'S STATEMENT

Defendant BuzzFeed expropriated Mango's exclusive Photograph from the New York Post, without Mango's authorization, for use in BuzzFeed's own news article about the identical subject matter. BuzzFeed knew or should have known that a license had to be obtained from Mango, but published the Photograph anyway in reckless disregard for Mango's rights. BuzzFeed also removed Mango's attribution (or "gutter credit") and replaced it with a false attribution to "Fisher & Taubenfeld" in order to facilitate the infringement. Accordingly, Plaintiff seeks to try two claims: (1) copyright infringement under 17 U.S.C. § 501; and (2) removal and/or alteration of copyright management information ("CMI") under 17 U.S.C. § 1202(b).

(1) Copyright Infringement Under 17 U.S.C. § 501

To establish a claim of copyright infringement, plaintiff must show two elements: (1) ownership of a valid copyright; and (2) unauthorized copying of the copyrighted work. *Feist Publ'ns, Inc. v. Rural Tel. Serv. Co.*, 499 U.S. 340, 361 (1991); *Castle Rock Entm't, Inc. v. Carol Publ'g Group, Inc.*, 150 F.3d 132, 137 (2d Cir. 1998).

Plaintiff seeks \$30,000 in statutory damages under 17 U.S.C. § 504(c) as a civil penalty for willful infringement. To prove "willfulness" under the Copyright Act, "the plaintiff must show (1) that the defendant was actually aware of the infringing activity, or (2) that the defendant's actions were the result of "reckless disregard" for, or "willful blindness" to, the copyright holder's rights. *Island Software & Computer Serv., Inc.*

v. Microsoft Corp., 413 F.3d 257, 263 (2d Cir. 2005) (citations omitted); *see also Yurman Design, Inc. v. PAJ, Inc.*, 262 F.3d 101, 112 (2d Cir.2001) (“Willfulness in this context means that the defendant recklessly disregarded the possibility that its conduct represented infringement.”); *Fitzgerald Pub. Co. v. Baylor Pub. Co.*, 807 F.2d 1110, 1115 (2d Cir. 1986) (“a defendant’s actual or constructive knowledge proves willfulness.”)

(2) Removal and/or Alteration of CMI Under 17 U.S.C. § 1202(b).

To establish a violation under subsection 1202(b) for removal and/or alteration of CMI, a plaintiff must show “(1) the existence of CMI on the [infringed work]; (2) removal and/or alteration of that information; and (3) that the removal and/or alteration was done intentionally.” *Gattoni v. Tibi, LLC*, 254 F. Supp. 3d 659, 664 (S.D.N.Y. 2017) (quoting *BanxCorp v. Costco Wholesale Corp.*, 723 F.Supp.2d 596, 609 (S.D.N.Y. 2010) (collecting cases)). A “gutter credit” — i.e., a photographer’s name placed below an image — constitutes CMI within the meaning of the DMCA. *See Agence France Presse v. Morel*, 769 F. Supp.2d 295, 305–06 (S.D.N.Y. 2011) (collecting cases which recognize a broad definition of CMI under statute).

Plaintiff seeks \$5,000 in statutory damages for BuzzFeed’s violation of section 1202(b). *See* 17 U.S.C. § 1203(c)(3)(B) (providing for statutory damages in the range of not less than \$2,500 or more than \$25,000).

DEFENDANT’S STATEMENT

Defendant argues that the writer of the article, Michael Hayes, had permission to use the photograph or reasonably believed he had permission to use the photograph of Mr. Parker, which is consistent with the practice of law firms having press kits for high-profile cases. The correspondence in this action corroborates that Mr. Hayes discussed the

proposed article with Parker's attorney, and that Parker's attorney approved the article. To the extent that Mr. Hayes was mistaken or the attorney did not have authority to approve Mr. Hayes' use of the photograph, Plaintiff has no evidence of willfulness on behalf of Mr. Hayes, who is experienced in writing articles in the genre in which the article at issue falls and does not set out to violate others' rights, much less conceal uses. Accordingly, the Section 1202 claim should be dismissed, and only minimal damages should be awarded for the copyright infringement claim. Indeed, even in cases of willfulness, the liability should be no more than a small multiple of a reasonable license fee, which here is (at best for Plaintiff) under \$150 and as low as 90 cents.

Considering that the New York *Post* reportedly chose the subject and when the subject would be photographed (having accompanied Plaintiff to Mr. Parker's home), the value of Plaintiff's contribution can be fairly said to be even lower than the average where the photographer was solely in control. Because the statutory minimum is \$750, which is greater than five times a reasonable license fee, this should be the maximum recovery to the extent Plaintiff elects to receive statutory damages under Section 504(c) of the Copyright Act in lieu of damages and profits attributable to the use under Section 504(b) of the Copyright Act.

(d) STATEMENT RE: JURY TRIAL

The parties have consented to a Bench Trial.

(e) STATEMENT RE: MAGISTRATE JUDGE

The parties have not consented to trial before the Magistrate Judge.

(f) STIPULATIONS OR AGREED STATEMENTS OF FACT OR LAW

1. BuzzFeed owns and operates the website located at www.buzzfeed.com.
2. On or about April 11, 2017, BuzzFeed published on its website an article written by BuzzFeed reporter Michael Hayes and entitled “New York City to Pay HIV-Positive Man Denied Job with NYPD \$50,000” (the “Article”).
3. A photograph that appears to be identical to that claimed in this case was included as part of the Article.
4. Other than the New York *Post*, no third party contacted him to use the Photograph.
5. A staff reporter for the New York *Post* accompanied Plaintiff to Mr. Parker’s residence.
6. Mr. Hayes corresponded with Mr. Parker’s attorney prior to publishing the Article.

(g) WITNESS LIST**Plaintiff’s Statement**

#	Witness Name	In Person	Summary of Testimony	Relevance to Issues on Trial
1	Gregory Mango	Yes	<ul style="list-style-type: none"> • Mango created the Photograph of Raymond Parker on January 18, 2017 while on assignment for the New York Post and is the true and rightful owner of the Photograph. • Mango is in possession of a Copyright Registration Certificate for the Photograph that was issued in the last 5 Years. 	<ul style="list-style-type: none"> • Creation and Ownership of the Photograph • Validity of the copyright in the Photograph • Buzzfeed’s unauthorized use of the Photograph and removal of copyright

#	Witness Name	In Person	Summary of Testimony	Relevance to Issues on Trial
			<ul style="list-style-type: none"> • Mango is in possession of a Certified Deposit Copy issued by U.S. Copyright Office which shows that the Photograph is on deposit with Registration. • The estimated fair market value of the Photograph is no less than \$500 and no more than \$2500. 	<p>management information.</p> <ul style="list-style-type: none"> • Proof of lost licensing fees, which may be one of several factors in determining statutory damages
2	Donna Halperin	No	<ul style="list-style-type: none"> • Ms. Halperin, an employee of Plaintiff's law firm, supervised the registration process and will confirm via declaration that the Photograph is on deposit with Registration. 	<ul style="list-style-type: none"> • Validity of the Copyright registration
3	Wajmah Yaqubi, Esq.	Yes	<ul style="list-style-type: none"> • Attorney Yaqubi supervises BuzzFeed's legal clearance and licensing of copyrighted materials published to the BuzzFeed website/ • BuzzFeed engages full-time in-house counsel to ensure that photographs used by BuzzFeed are properly licensed and attributed. • BuzzFeed maintains standards and practices for licensing photographs, which are disseminated to BuzzFeed's reporters and journalists, including 	<ul style="list-style-type: none"> • Willfulness, i.e., whether BuzzFeed had actual or constructive knowledge that licenses for Photographs had to be obtained from copyright holders. • Intent under section 1202(b), i.e., whether BuzzFeed had knowledge that it removed Mango's attribution from the Photograph and replaced it

#	Witness Name	In Person	Summary of Testimony	Relevance to Issues on Trial
			<p>Michael Hayes.</p> <ul style="list-style-type: none"> • Buzzfeed did <u>not</u> obtain Photograph from Lianne Fisher of Fisher & Taubenfeld • Buzzfeed did <u>not</u> obtain authorization from Lianne Fisher of Fisher & Taubenfeld to publish Photograph on Buzzfeed's website. 	with a false attribution.
4	Michael Hayes	Yes	<ul style="list-style-type: none"> • Mr. Hayes is a senior reporter for Buzzfeed news with years of experience in using and licensing photographs and monitoring the appropriate credits or attribution • Mr. Hayes obtained the Photograph from the New York Post. • Mr. Hayes removed Mango's attribution from the Photograph and intentionally replaced it with a false attribution. • Buzzfeed did <u>not</u> obtain the Photograph from Lianne Fisher of Fisher & Taubenfeld • Buzzfeed did <u>not</u> obtain authorization from Lianne Fisher of Fisher & Taubenfeld to publish 	<ul style="list-style-type: none"> • Unauthorized copying of Mango's work • Willfulness, i.e., whether Buzzfeed had actual or constructive knowledge that licenses for Photographs had to be obtained from copyright holders. • Intent under section 1202(b), i.e., whether Buzzfeed had knowledge that it removed Mango's attribution from the Photograph and replaced it with a false attribution.

#	Witness Name	In Person	Summary of Testimony	Relevance to Issues on Trial
			<p>Photograph on BuzzFeed's website.</p> <ul style="list-style-type: none"> • Mr. Hayes knew or should have known that Mango's (or the New York Post's) authorization was required to publish Mango's photograph on BuzzFeed's website. 	
5	Lianne Fisher, Esq.	Yes	<ul style="list-style-type: none"> • Attorney Fisher is a private employment lawyer who represented Raymond Parker, the subject matter of the Photograph. • Fisher did <u>not</u> provide the Photograph to BuzzFeed; never had possession of the Photograph as of the time one was requested on April 11, 2017; and has no rights to the Photograph. • Fisher did <u>not</u> provide BuzzFeed authorization to publish the Photograph on BuzzFeed's website. 	<ul style="list-style-type: none"> • Willfulness, i.e., whether BuzzFeed had actual or constructive knowledge that licenses for Photographs had to be obtained from copyright holders. • Intent under section 1202(b), i.e., whether BuzzFeed had knowledge that it removed Mango's attribution from the Photograph and replaced it with a false attribution.
6	Corporate Representative – BuzzFeed, Inc.	Yes	<ul style="list-style-type: none"> • BuzzFeed's corporate representative will testify as to BuzzFeed's estimated net worth, market valuation, gross revenues and net profits. 	<ul style="list-style-type: none"> • Calculation of statutory damages so as to deter future infringement

Defendant's Objections to Plaintiff's Witness List

Defendant objects to the introduction of Ms. Yaqubi, who works in BuzzFeed's legal department and got involved for purposes of investigating the claim, on FRE 403, 602 and other grounds, and the corporate representative on FRE 402 and 403 grounds given the irrelevance of the information and the fact that the information sought is private. Notwithstanding the lack of relevance of the information, Defendant has offered to stipulate to a wide variety of non-private information, and the parties have yet to resolve the issue. Defendant has filed motions *in limine* regarding the two foregoing topics, and Plaintiff has opposed.

Defendant's Statement

#	WITNESS NAME	IN PERSON	SUMMARY OF TESTIMONY	RELEVANCE TO ISSUES ON TRIAL
1	Michael Hayes	Yes	Although the correspondence produced in this case tells the story quite sufficiently, to the extent his testimony is necessary, Mr. Hayes will speak about his recollection pertaining to the sourcing and use of the photograph at issue in this case.	Relevant to the use of the photograph, including sourcing, discussions with subject's attorney, and lack of willfulness.

(h) DEPOSITION TESTIMONY

No depositions were taken in advance of the prior pre-trial submission, and the parties requested the Court's leave to supplement the joint pre-trial submission to include relevant transcript citations once they become available. Shortly after the filing of the prior

pretrial order on June 4, Defendant took the deposition of Plaintiff, and the designations of the transcript of such deposition are submitted herewith.

Plaintiff's Deposition Testimony Designations

None.

Defendant's Deposition Testimony Designations

#	WITNESS NAME	TRANSCRIPT DESIGNATIONS	PLAINTIFF'S CROSS-DESIGNATIONS	PLAINTIFF'S OBJECTIONS
1	Gregory Mango	35:10 – 22 65:8 – 14 66:3 – 16 72:14 – 80:2 88:16 – 90:4 <i>[marked Highly Confidential]</i> 104:21 – 105:3 131:23 – 132:15 209:20 – 210:18 213:8 – 16 214:3 – 11 214: 16 – 21 216:9 – 13 218:23 – 221:16	19:6-20 37:12-17 37:23-38:8 64:22-65:7 69:8-25 70:11-19 92:15-25 105:15-18 112:12-18 122:15-21 125:5-10 128:7-12 137:3-13 150:24-151:11 179:13-180:6 180:23-25 185:6-186:2	*FRE 402, 403 objection to 88:16-90:4

#	WITNESS NAME	TRANSCRIPT DESIGNATIONS	PLAINTIFF'S CROSS-DESIGNATIONS	PLAINTIFF'S OBJECTIONS
			210:19-211:10 213:16-214:2	

(i) **EXHIBIT LIST****Plaintiff's Exhibit List**

#	P. Ex._ (Bate-Stamp)	DOCUMENT DESCRIPTION	DEFENDANT'S OBJECTIONS
1	P. Ex. 1 (MANG0016-21)	Freelance Photographer Independent Contractor Agreement b/w Mango and NYP Holdings, Inc., dated May 14, 2015 <i>(produced by Mango)</i>	
2	P. Ex. 2 (FOX00001-6) (DEF-000042-47)	Freelance Photographer Independent Contractor Agreement b/w Mango and NYP Holdings, Inc., dated May 14, 2015 <i>(produced by New York Post via Buzzfeed's Third-Party Subpoena)</i>	
3	P. Ex. 3 (MANG0006-9)	Certificate of Registration, VA 2-036-434, dated March 26, 2017, including Photograph entitled "Mango, Raymond Parker, 1_18_2017.jpg"	
4	P. Ex. 4 (DEF-00001, 2, 12)	Certified Copy of Deposit for Copyright Registration No. VA 2-036-434, including Photograph of Raymond Parker at issue in this litigation (DEF00012)	
5	P. Ex. 5 (MANG0013-15)	Partial Copy of Deposit for "Mango, Raymond Parker, 1_18_2017.jpg" from Copyright Registration No. VA 2-036-434	*FRE 403, 901
6	P. Ex. 6 (MANG0001-3)	Application for Certificate of Registration, bearing Service Request No. 1-4464896215, including Photograph entitled "Mango, Raymond Parker, 1_18_2017.jpg"	*FRE 402, 802

#	P. Ex._ (Bate-Stamp)	DOCUMENT DESCRIPTION	DEFENDANT'S OBJECTIONS
7	P. Ex. 7 (MANG0004-5)	E-mail from Copyright Office to Richard Liebowitz, Subject: "Acknowledgment of Uploaded Deposit," dated March 26, 2017, including Photograph entitled "mango_raymond parker_1_18_2017.jpg"	*FRE 402, 802
8	P. Ex. 8 (MANG0010-11)	Litigation Statement – Form LS, dated November 21, 2017, requesting Partial Deposit Copy for "Mango, Raymond Parker, 1_18_2017.jpg"	*FRE 402, 802
9	P. Ex. 9 (MANG0012)	Receipt from U.S. Copyright Office, dated December 29, 2017, in the amount of \$112.00 for Partial Deposit Copy for "Mango, Raymond Parker, 1_18_2017.jpg" from VA 2-036-434	*FRE 402
10	P. Ex. 10 (MANG0022-24)	E-mails b/w Debbie Carillo and U.S. Copyright Office re: Request for Copy of Photo Deposit for Serial # 1-4464896215, dated 11/24/17-11/26/17	*FRE 402, 802
11	P. Ex. 11 (MANG0025-48)	E-mail chain b/w Liane Fisher, Esq. (Fisher & Taubenfeld) and Michael Hayes (Buzzfeed), dated April 11, 2017; <u>and</u> b/w Liane Fisher, Esq. and Wajmah Yaqubi (Buzzfeed) c.c. Michael Hayes (Buzzfeed), dated September 13-22, 2017.	
News Articles re: Raymond Parker			
12	P. Ex. 12 (MANG0071-77)	Complaint, <i>U.S. v. The City of New York</i> , 17-cv-0346, dated January 17, 2017 re: Raymond Parker	*FRE 402, 403
13	P. Ex. 13 (MANG0254-56)	NEW YORK POST article, dated January 18, 2017, entitled " <i>Bharara sues city over NYPD rejecting man with HIV</i> " <u>with</u> photograph of Raymond Parker and with proper attribution to Gregory Mango	*FRE 802
14	P. Ex. 14 (MANG0353-54)	NEW YORK DAILY NEWS article, dated January 18, 2017, entitled " <i>Feds accuse NYPD of HIV hiring bias</i> " <u>without</u> photograph of Raymond Parker	*FRE 402, 403, 802
15	P. Ex. 15 (MANG0257-58)	CBS NEWS article, dated January 23, 2017, entitled " <i>Feds sue NYPD over man's HIV</i> "	*FRE 402, 403, 802

#	P. Ex._ (Bate-Stamp)	DOCUMENT DESCRIPTION	DEFENDANT'S OBJECTIONS
		<i>discrimination claim</i> " <u>without</u> photograph of Raymond Parker	
16	P. Ex. 16 (MANG0259-60)	REUTERS NEWS article, dated January 18, 2017 entitled " <i>U.S. sues New York City for denying police job to man with HIV</i> " <u>without any</u> photograph	*FRE 402, 403, 802
17	P. Ex. 17 (MANG0261-62)	NEW YORK POST article, dated April 11, 2017, entitled " <i>Man gets NYPD job he was denied due to HIV</i> " <u>with</u> photograph of Raymond Parker by Gregory Mango	*FRE 402, 403, 802
18	P. Ex. 18 (MANG0263-64)	NEW YORK DAILY NEWS article, dated April 11, 2017, entitled "NYPD agrees to hire man who was previously rejected over HIV" <u>without</u> photograph of Raymond Parker	*FRE 402, 403, 802
19	P. Ex. 19 (MANG0265-66)	REUTERS NEWS article, dated April 11, 2017 entitled " <i>New York City Settles with U.S. over denying job to HIV-positive man</i> " <u>without any</u> photograph	*FRE 402, 403, 802
20	P. Ex. 20 (MANG0078-84)	BUZZFEED article, dated April 11, 2017, entitled " <i>New York City to Pay HIV-Positive Man Denied Job With NYPD \$50,000</i> " by Michael Hayes, Senior BuzzFeed News Reporter, <u>with</u> photograph of Raymond Parker taken from NEW YORK POST without attribution to Gregory Mango	
21	P. Ex. 21 (MANG0275-78)	ALTERNATE SCREENSHOTS OF BUZZFEED article, dated April 11, 2017, entitled " <i>New York City to Pay HIV-Positive Man Denied Job With NYPD \$50,000</i> " <u>with</u> photograph of Raymond Parker taken from NEW YORK POST without attribution to Gregory Mango	*FRE 402, 901
22	P. Ex. 22 (MANG0268-69)	BUZZFEED article, dated April 11, 2017 (but revised after this lawsuit was filed), entitled " <i>New York City to Pay HIV-Positive Man Denied Job With NYPD \$50,000</i> " by Michael Hayes, Senior BuzzFeed News Reporter, <u>with</u> photograph of NYPD car from Getty Images	*FRE 407

#	P. Ex._ (Bate-Stamp)	DOCUMENT DESCRIPTION	DEFENDANT'S OBJECTIONS
23	P. Ex. 23 (MANG0270-274)	GETTY IMAGES screenshots – Photograph of NYPD Car by Spencer Platt (used in Buzzfeed's revised 4/11/17 article)	*FRE 402, 403
Buzzfeed's Reported Financial Information			
24	P. Ex. 24 (MANG0088-102)	BUZZFEED Wikipedia article, accessed 5/31/2018	*FRE 402, 403, 802
25	P. Ex. 25 (MANG0103-5)	MONEY.CNN article, dated April 12, 2016, entitled " <i>BuzzFeed buzzkill: Its stunning revenue miss goes viral</i> "	*FRE 402, 403, 802
26	P. Ex. 26 (MANG0108-110)	BUSINESSINSIDER.COM article, dated November 21, 2016, entitled " <i>Buzzfeed raised another \$200 million from NBC at the same valuation it had last year</i> "	*FRE 402, 403, 802
27	P. Ex. 27 (MANG0355-56)	INC. article, dated July 30, 2015, entitled " <i>Buzzfeed is Now Worth \$1.5 Billion</i> "	*FRE 402, 403, 802
28	P. Ex. 28 (MANG0357)	FORTUNE article, dated July 31, 2015, entitled " <i>Here's Why Buzzfeed could be worth \$1.5 billion</i> "	*FRE 402, 403, 802
\$30,000 Judgments in S.D.N.Y. for Willful Infringement in Single Photograph Cases			
29	P. Ex. 28 (MANG0123-24)	<i>J.C. Rice v. Sutton New Media LLC</i> , 17-cv-8332 (WHP), dated 5/24/18 (Judge Pauley), ordering that "Defendant shall pay \$30,000 in statutory damages" under the Copyright Act.	*FRE 402, 403
30	P. Ex. 30 (MANG0121-22)	<i>Myers v. COED Media Group, LLC</i> , 18-cv-02180 (JSR), dated 5/2/18 (Judge Rakoff), ordering that "Defendant shall pay \$60,000 in civil penalties, representing \$30,000 for each instance of willful copyright infringement."	*FRE 402, 403

#	P. Ex._ (Bate-Stamp)	DOCUMENT DESCRIPTION	DEFENDANT'S OBJECTIONS
31	P. Ex. 31 (MANG0114-118)	<i>Marzullo v. Karmic Release Ltd.</i> , 17-cv-7482 (KPF), dated 4/24/18 (Judge Failla), ordering that "Defendant violated 17 U.S.C. § 501 and shall pay \$30,000 in civil penalties for copyright infringement."	*FRE 402, 403
32	P. Ex. 32 (MANG0125-26)	<i>Zlozower v. Rukkus, Inc.</i> , 17-cv-09510 (RWS), dated 3/28/18 (Judge Sweet), ordering "\$30,000 in statutory damages under the Copyright Act, 17 U.S.C. § 501 I" after declaring that "Defendant violated Plaintiff's exclusive rights under 17 U.S.C. § 106 of the Copyright Act by engaging in unauthorized copying of Plaintiff's registered work"	*FRE 402, 403
33	P. Ex. 33 (MANG0111-12)	<i>Chevrestt v. Craft Nation, Inc.</i> , 17-cv-09232-JSR, dated 1/8/18 (Judge Rakoff) awarding "\$30,000 in civil penalties for each instance of willful copyright infringement."	*FRE 402, 403
34	P. Ex. 34 (MANG0113)	<i>Lee v. White Cat Media</i> , 17-cv-8122 (JSR), dated 12/13/17 (Judge Rakoff) awarding "\$30,000 as damages for defendant's infringement of plaintiff's [copyright] in violation of 17 U.S.C. § 501 et seq."	*FRE 402, 403
35	P. Ex. 35 (MANG0119-120)	<i>Miller v. AllHipHop.com LLC</i> , 16-cv-02744 (RA), dated 10/11/16 (Judge Abrams), ordering that "Defendant shall pay \$30,000 in civil penalties for willful copyright infringement"	*FRE 402, 403
Mango's License Fee History (Unrelated Photographs)			
36	P. Ex. 36 (MANG0127-31) (MANG0279-80)	Various Statements / Receipts Indicating Licensing Fee History for Mango's Photographs (2006-2015)	*FRE 402, 403, 802, 901
Buzzfeed News Article by Michael Hayes			
37	P. Ex. 37 (MANG0139-77)	Michael Hayes' BuzzFeed Page	*FRE 402, 403

#	P. Ex._ (Bate-Stamp)	DOCUMENT DESCRIPTION	DEFENDANT'S OBJECTIONS
38	P. Ex. 38 (MANG0178-181)	BUZZFEED article, dated May 25, 2017, entitled " <i>Department of Justice Lawyers Fear Trump Will Scrap All Their Work to Overhaul the Chicago Police</i> " by Michael Hayes	*FRE 402, 403
39	P. Ex. 39 (MANG0183-85)	BUZZFEED article, dated May 23, 2017, entitled " <i>The ACLU Wants the Documents From the Meeting With Trump Made Public</i> " by Michael Hayes	*FRE 402, 403
40	P. Ex. 40 (MANG00187-89)	BUZZFEED article, dated May 30, 2017, entitled " <i>Cleveland Cop Who Shot And Killed Tamir Rice Has Been Fired For Lying On His Job Application</i> " by Michael Hayes	*FRE 402, 403
41	P. Ex. 41 (MANG0191-95)	BUZZFEED article, dated May 25, 2017, entitled " <i>Anthony Weiner Has Pleaded Guilty In a Teen Sexting Case and Faces Jail Time</i> " by Michael Hayes	*FRE 402, 403
42	P. Ex. 42 (MANG0197-99)	BUZZFEED article, dated April 21, 2017, entitled " <i>The Justice Department Sent A Letter Threatening to Pull Funding From Sanctuary Cities</i> " by Michael Hayes	*FRE 402, 403
43	P. Ex. 43 (MANG0201-4)	BUZZFEED article, dated April 20, 2017, entitled " <i>Massachusetts Just Dismissed More Than 21,000 Drug Cases Connected to Massive Lab Scandal</i> " by Michael Hayes	*FRE 402, 403
44	P. Ex. 44 (MANG0206-9)	BUZZFEED article, dated May 3, 2017, entitled " <i>This Chicago Man Was Sentenced To Life On A Faulty Arson Conviction – Now He's Getting Out</i> " by Michael Hayes	*FRE 402, 403
45	P. Ex. 45 (MANG0211-13)	BUZZFEED article, dated April 20, 2017, entitled " <i>Husband of New York Judge Calls Speculation About Her Death 'Unwarranted and Irresponsible'</i> " by Michael Hayes	*FRE 402, 403
46	P. Ex. 46 (MANG0219-22)	BUZZFEED article, dated February 23, 2017, entitled " <i>Attorney General Reverses Obama-Era To Plan to Limit Use of Private Prisons</i> " by Michael Hayes	*FRE 402, 403
47	P. Ex. 47 (MANG0224-26)	BUZZFEED article, dated February 3, 2017, entitled " <i>Billionaire Drug Lord El Chapo Gets to Keep His Public Defenders – For Now</i> " by Michael Hayes	*FRE 402, 403

#	P. Ex._ (Bate-Stamp)	DOCUMENT DESCRIPTION	DEFENDANT'S OBJECTIONS
Buzzfeed Infringement History			
48	P. Ex. 48 (MANG0235-38)	<i>Masi v. Buzzfeed, Inc.</i> 17-cv-01553-DLC, Docket Sheet	*FRE 402, 403
49	P. Ex. 49 (MANG0239-44)	<i>Werner v Buzzfeed, Inc.</i> , 17-cv-02830-KPF, Docket Sheet	*FRE 402, 403
50	P. Ex. 50 (MANG0245-48)	<i>Michael Grecco Productions, Inc.</i> , 18-cv- 02232-GHW, Docket Sheet	*FRE 402, 403
51	P. Ex. 51 (MANG0249-51)	<i>Myeress v. Buzzfeed, Inc.</i> , 18-cv-02365-VSB, Docket Sheet	*FRE 402, 403
52	P. Ex. 52 (MANG0252-53)	<i>Minden Pictues, Inc. v. Buzzfeed, Inc.</i> , 18-cv- 02438-DAB, Docket Sheet	*FRE 402, 403
Discovery Related Materials			
53	P. Ex. 53 (MANG0281-293)	Buzzfeed's Notice of Issuance of Subpoena Duces Tecum to News Corp., dated March 8, 2018	*FRE 402, 403
54	P. Ex. 54 (MANG0294)	E-mail from Freeman to Lackman, dated March 14, 2018, attaching Mango's Discovery Requests, Interrogatories and Initial Disclosures	*FRE 402, 403
55	P. Ex. 55 (MANG0295-304)	Plaintiff Gregory Mango's First Set of Requests for Production of Documents, dated March 14, 2018	*FRE 402, 403
56	P. Ex. 56 (MANG0305-7)	Plaintiff's Rule 26(a)(1) Initial Disclosures, dated March 14, 2018	

#	P. Ex._ (Bate-Stamp)	DOCUMENT DESCRIPTION	DEFENDANT'S OBJECTIONS
57	P. Ex. 57 (MANG0308-315)	Plaintiff Gregory Mango's First Set of Interrogatories, dated March 14, 2018	*FRE 402, 403
58	P. Ex. 58 (MANG0316)	Letter from Freeman to Lackman, dated May 3, 2018 re: Document Production, Proposed Stipulation	*FRE 402, 403
59	P. Ex. 59 (MANG0327-29)	Letter from Freeman to Lackman, dated May 22, 2018 re: Rule 37 matter	*FRE 402, 403
60	P. Ex. 60 (MANG0330-342)	Plaintiff Gregory Mango's First Set of Requests for Admission, dated May 24, 2018	*FRE 402, 403
61	P. Ex. 61 (MANG0343-45)	Plaintiff's Rule 26I Supplemental Disclosures, dated May 24, 2018	
62	P. Ex. 62 (MANG0317-26)	Defendant BuzzFeed Inc.'s First Set of Requests for the Production of Documents, dated May 29, 2018	*FRE 402, 403
63	P. Ex. 63 (MANG0346-47)	Letter from Freeman to Lackman, dated May 30, 2018 re: Rule 37 matters	*FRE 402, 403
64	P. Ex. 64 (MANG0348-52)	Plaintiff's Second Rule 26I Supplemental Disclosures, dated May 31, 2018	
65	P. Ex. 65 (MANG0358-63)	Defendant's Rule 26(a) Initial Disclosures, dated June 1, 2018	
Pleadings			
66	P. Ex. 66	Initial Complaint w/ Exhibits A-D, dated September 6, 2017 [Docket #1]	*FRE 402, 403
67	P. Ex. 67	Defendant's Answer, dated November 8, 2017 [Docket # 13]	*FRE 402, 403

#	P. Ex._ (Bate-Stamp)	DOCUMENT DESCRIPTION	DEFENDANT'S OBJECTIONS
68	P. Ex. 68	Amended Complaint w/ Exhibits A-D, dated November 22, 2017 [Docket #16]	*FRE 802 (as to Ex. B), FRE 901 (as to Ex. C)
69	P. Ex. 69	Defendant's Amended Answer, dated December 6, 2017 [Docket # 17]	
Supplemental Documents			
70	P. Ex. 70 (MANG000364-366)	Plaintiff's Text Messages to Lorena Mongelli, dated January 18, 2017	*FRE 402, 802
71	P. Ex. 71 (MANG0367-384)	Plaintiff's Third-Party Subpoena to Produce Documents Directed to Liane Fisher, Esq., dated June 8, 2018	*FRE 402, 403
72	P. Ex. 72 (MANG0385)	Transmittal Letter from Fisher Taubenfeld LLP to Plaintiff's Counsel, dated June 21, 2018 in response to Subpoena	*FRE 402, 403
73	P. Ex. 73 (MANG0386)	E-mail from Mike Hayes to Liane Fisher, Esq., dated April 11, 2017 at 10:54 a.m. re: Raymond Parker, Jr. settlement	
74	P. Ex 74 (MANG0387)	E-mail from Liane Fisher, Esq. to Mike Hayes, dated April 11, 2017 at 11:16 a.m. re: Raymond Parker, Jr. settlement	
75	P. Ex. 75 (MANG0388)	E-mail from Mike Hayes to Liane Fisher, Esq. dated April 11, 2017 at 11:17 a.m. re: Raymond Parker, Jr. settlement	
76	P. Ex. 76 (MANG0389)	E-mail from Mike Hayes to Liane Fisher, Esq. dated April 11, 2017 at 11:18 a.m. re: Raymond Parker, Jr. settlement	
77	P. Ex. 77 (DEF-00054-55)	Michael Hayes' computer screenshots, dated April 11, 2017 at 11:48 a.m. re: Raymond Parker, Jr. photograph from <i>New York Post</i>	
78	P. Ex. 78 (MANG0390)	E-mail from Mike Hayes to Liane Fisher, Esq. dated April 11, 2017 at 12:24 p.m. re: Raymond Parker, Jr. settlement	

#	P. Ex._ (Bate-Stamp)	DOCUMENT DESCRIPTION	DEFENDANT'S OBJECTIONS
79	P. Ex. 79 (MANG0391)	E-mail from Liane Fisher, Esq. to Mike Hayes, dated April 11, 2017 at 1:00 p.m. re: Raymond Parker, Jr. settlement	
80	P. Ex. 80 (MANG0392)	E-mail from Mike Hayes to Liane Fisher, Esq. dated April 11, 2017 at 12:24 p.m. re: Raymond Parker, Jr. settlement	
81	P. Ex. 81 (MANG000392)	E-mail from Mike Hayes to Liane Fisher, Esq., c.c. Wajmah Yaqubi, dated September 13, 2017 at 4:13 p.m. re: Raymond Parker story	
82	P. Ex. 82 (MANG000393-94)	E-mail from Wajmah Yaqubi to Mike Hayes, c.c. Liane Fisher, Esq., dated September 21, 2017 at 10:13 a.m. re: Raymond Parker story	*FRE 402, 403, 802
83	P. Ex. 83 (MANG0395)	E-mail from Liane Fisher, Esq. to Wajmah Yaqubi, c.c. Mike Hayes, dated September 21, 2017 at 12:11 p.m. re: Raymond Parker story	
84	P. Ex. 84 (MANG0396)	E-mail from Wajmah Yaqubi to Mike Hayes, c.c. Liane Fisher, Esq., dated September 21, 2017 at 1:41 p.m. re: Raymond Parker story	*FRE 402, 403, 802
85	P. Ex. 85 (MANG0397-98)	E-mail from Liane Fisher, Esq. to Wajmah Yaqubi, c.c. Mike Hayes, dated September 22, 2017 at 1:36 p.m. re: Raymond Parker story	
86	P. Ex. 86 (MANG0399)	E-mails between Michael Taubenfeld, Esq. and Liane Fisher, Esq., dated April 13, 2017	*FRE 802
87	P. Ex. 87 (MANG0612-625)	Copyright Registration / Application for VA 2-062-497 re: Raymond Parker smiling photo published April 11, 2017	*FRE 402, 403
88	P. Ex. 88 (MANG0638)	Summary of License Fees Personally Negotiated by Plaintiff Gregory Mango (via p3200 Photojournalism) [Pursuant to F.R.E. 1006]	*FRE 402, 403
89	P. Ex. 89 (MANG0636, 403, 407, 416, 408, 423, 415, 406,	License Fees Personally Negotiated by Plaintiff Gregory Mango (via p3200 Photojournalism)	*FRE 402, 403

#	P. Ex._ (Bate-Stamp)	DOCUMENT DESCRIPTION	DEFENDANT'S OBJECTIONS
	404, 405, 435, 629, 411, 410, 409)		
90	P. Ex. 90 (MANG0639)	Summary of Top 12 License Fees Negotiated by Third-Party Stock Photo Agencies (i.e., Polaris, Splash) on Gregory Mango's Behalf [Pursuant to F.R.E. 1006]	*FRE 402, 403
91	P. Ex. 91 (MANG0127, 426, 424, 439, 438, 414, 428, 452)	Top 12 License Fees Negotiated by Third-Party Stock Photo Agencies (i.e., Polaris, Splash) on Gregory Mango's Behalf	*FRE 402, 403
92	P. Ex. 92 (DEF-00048)	<i>New York Post</i> Payment Summary	
93	P. Ex. 93 (MANG0654-657)	Correspondence b/w Plaintiff's Counsel and Defendant's Counsel re: Discovery Deficiencies, dated June 6, 2018 thru July 9, 2018	*FRE 402, 403
94	P. Ex. 94 (MANG0658- 693)	Declaration of Donna Halperin, dated July 13, 2018, plus exhibits.	*FRE 402, 403, 802
95	P. Ex. 95 (MANG0694)	<i>Myeress v. Brissi Group, LLC</i> , 17-cv-09691-KPF, dated 6/25/18 (Judge Failla) awarding "\$30,000 in civil penalties for copyright infringement" and "\$10,000 in civil penalties for improper removal of copyright management information."	*FRE 402, 403

Defendant's Exhibit List

#	D. Ex._ (Bates Range)	DOCUMENT DESCRIPTION	PLAINTIFF'S OBJECTIONS
1	D. Ex. 1 (MANG0026; MANG0037 – MANG0047; DEF00037 –	Correspondence between Liane Fisher and Michael Hayes	

#	D. Ex._ (Bates Range)	DOCUMENT DESCRIPTION	PLAINTIFF'S OBJECTIONS
	DEF00041; DEF-00050- 53)		
2	D. Ex. 2 (MANG0001- 5; DEF-00042- 47)	New York Post agreement with Gregory Mango	
3	D. Ex. 3 (MANG0127)	Polaris statement showing license fee payments to Mango	
4	D. Ex. 4 (MANG0279- 280)	Royalty statement from Splash showing license fee payments to Mango	
5	D. Ex. 5	Answer to Complaint	
6	D. Ex. 6 (DEF-00048)	Summary of payment made by the New York Post to Gregory Mango in connection with the photograph at issue	
7	D. Ex. 7 (DEF-00054- 55)	Files showing image source and metadata contained therein	
8	D. Ex. 8	Defendant's Objections and Answers to Interrogatory Nos. 16-19	*FRE 402, 403, 901
9	D. Ex. 9 (MANG0560- MANG0567; MANG0575- MANG0577)	Splash Monthly Royalty Statements reflecting license fee payments to Mango	*FRE 402, 403
10	D. Ex. 10 (DEF-00056 - DEF-00068)	Vanity Fair article titled <i>Did the Sons Know?</i> (July 2009) and screenshot of photograph featured in article taken from www.vanityfair.com	
11	D. Ex. 11 (DEF-00069)	Screenshot of photograph displayed on ABC News website (www.abcnews.go.com)	
12	D. Ex. 12 (DEF-00070 - DEF-00083)	Summary of license fees earned by Mango (pursuant to F.R.E. 1006)	*FRE 402, 403, 901

Respectfully Submitted:

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IT IS SO ORDERED.

VICTOR MARRERO, U.S.D.J.